

FILED
08-07-2019
CIRCUIT COURT
DANE COUNTY, WI
2019CV002195
Honorable Rhonda L.
Lanford
Branch 16

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

KENNETH F. JAWOREK
1015 North Sunnyvale Lane, Unit C
Madison, Wisconsin 53713,

Plaintiff,

ALEX AZAR, UNITED STATES SECRETARY
OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES
c/o Scott C. Blader
United States Attorney
222 West Washington Avenue, Suite 700
Madison, Wisconsin 53703,

DEAN HEALTH PLAN, INCORPORATED
1277 Deming Way
Madison, Wisconsin 53717,

Involuntary Plaintiffs,

v.

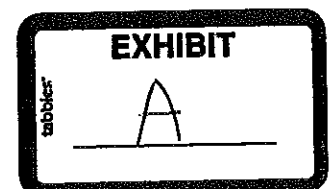
MOHAVE TRANSPORTATION INSURANCE
COMPANY
2555 East Camelback Road, Suite 700
Phoenix, Arizona 85016,

SWIFT TRANSPORTATION COMPANY OF
ARIZONA, LLC
2200 South 75th Avenue
Phoenix, Arizona 85043,

ABC INSURANCE COMPANY
(An Unknown Insurance Company),

CIVIL SUMMONS

Case Number:
Code Number: 30101
Personal Injury – Auto
Amount Claimed Greater
Than \$5,000.00



JOHN F. DEGUIDE
303 East Depot Street
Creston, Illinois 60113,

Defendants.

THE STATE OF WISCONSIN TO: All Named Defendants.

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is served upon you, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, as that term is used in Wis. Stat. Ch. 802, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to:

Clerk of Courts
Dane County Courthouse
Room 1000
215 South Hamilton Street
Madison, Wisconsin 53703

and to the Plaintiff's attorneys:

Brandon D. Derry
Hupy and Abraham, S.C.
3001 West Beltline Highway
Suite 204
Madison, Wisconsin 53713

You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant Judgment against you for the award of money or other legal action requested in the Complaint. A Judgment may be enforced as provided by law. A Judgment awarding money may become a lien

against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

DATED at Madison, Wisconsin, this 6th day of August, 2019.

HUPY AND ABRAHAM, S.C.
Attorneys for the Plaintiff,

By: 

Brandon D. Derry
State Bar Number: 1055908

Post Office Address:
3001 West Beltline Highway
Suite 204
Madison, Wisconsin 53713
(608) 277-7777

FILED
08-07-2019
CIRCUIT COURT
DANE COUNTY, WI
2019CV002195
Honorable Rhonda L.
Lanford
Branch 16

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

KENNETH F. JAWOREK
1015 North Sunnyvale Lane, Unit C
Madison, Wisconsin 53713,

Plaintiff,

ALEX AZAR, UNITED STATES SECRETARY
OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES
c/o Scott C. Blader
United States Attorney
222 West Washington Avenue, Suite 700
Madison, Wisconsin 53703,

DEAN HEALTH PLAN, INCORPORATED
1277 Deming Way
Madison, Wisconsin 53717,

Involuntary Plaintiffs,

v.

MOHAVE TRANSPORTATION INSURANCE
COMPANY
2555 East Camelback Road, Suite 700
Phoenix, Arizona 85016,

SWIFT TRANSPORTATION COMPANY OF
ARIZONA, LLC
2200 South 75th Avenue
Phoenix, Arizona 85043,

ABC INSURANCE COMPANY
(An Unknown Insurance Company),

CIVIL COMPLAINT

Case Number:
Code Number: 30101
Personal Injury – Auto
Amount Claimed Greater
Than \$5,000.00

JOHN F. DEGUIDE
303 East Depot Street
Creston, Illinois 60113,

Defendants.

NOW COMES the Plaintiff, Kenneth F. Jaworek, by and through his attorneys, Hupy and Abraham, S.C., by Brandon D. Derry, and as for his Complaint against the Defendants, alleges and shows to the Court as follows:

1. That the Plaintiff, Kenneth F. Jaworek, is an adult resident of the City of Madison, County of Dane, Wisconsin, currently residing at 1015 North Sunnyvale Lane, Unit C, Zip Code 53713.

2. That the Involuntary Plaintiff, Alex Azar, United States Secretary of the Department of Health and Human Services, has oversight and responsibility for the Health Care Financing Administration, the agency responsible for administering the Federal Medicare Program; that service of process for the Involuntary Plaintiff, Alex Azar, United States Secretary of the Department of Health and Human Services, shall be served upon Scott C. Blader, United States Attorney, located at 222 West Washington Avenue, Suite 700, Madison, Wisconsin, Zip Code 53703; and that said Program alleges to have paid out money on behalf of the Plaintiff, Kenneth F. Jaworek, and is therefore named as a subrogated party in this action pursuant to Wis. Stat. § 803.03.

3. That the Involuntary Plaintiff, Dean Health Plan, Incorporated, is a domestic health maintenance organization, organized and existing under the laws of Wisconsin, with its principal place of business located at 1277 Deming Way, Madison, Wisconsin, Zip Code 53717; that the registered agent in Wisconsin for the Involuntary Plaintiff, Dean Health Plan, Incorporated, is CT Corporation System, located at 301 South Bedford Street, Suite One, Madison, Wisconsin, Zip

Code 53703; and that the Involuntary Plaintiff, Dean Health Plan, Incorporated, alleges to have paid out money on behalf of the Plaintiff, Kenneth F. Jaworek, and is therefore named as an alleged subrogated party in this action pursuant to Wis. Stat. § 803.03.

4. That the Involuntary Plaintiff, Dean Health Plan, Incorporated, is not entitled to reimbursement or subrogation.

5. That the Defendant, Mohave Transportation Insurance Company, is a foreign insurance company, organized and existing under the laws of Arizona, with the address for its principal place of business located at 2555 East Camelback Road, Suite 700, Phoenix, Arizona, Zip Code 85016; that the registered agent for the Defendant, Mohave Transportation Insurance Company, is National Registered Agents, located at 3800 North Central Avenue, Suite 460, Phoenix, Arizona, Zip Code 85012; that the Defendant, Mohave Transportation Insurance Company, is engaged in the business of writing and selling insurance, and that prior to the date of the accident described herein, July 21, 2017, it issued its policy of insurance to the Defendant, Swift Transportation Company of Arizona, LLC, insuring it, its employees, agents, servants, representatives, and/or volunteers against liability of the type hereinafter alleged; that this policy of insurance was issued and delivered in the state of Wisconsin; and that this policy of insurance was in full force and effect at all times material hereto.

6. That the Defendant, Swift Transportation Company of Arizona, LLC, is a foreign corporation, organized and existing under the laws of Delaware, with its principal place of business located at 2200 South 75th Avenue, Phoenix, Arizona, Zip Code 85043; that legal process for the Defendant, Swift Transportation Company of Arizona, LLC, shall be served upon its reception area, also located at 2200 South 75th Avenue, Phoenix, Arizona, Zip Code 85043; and that the Defendant, Swift Transportation Company of Arizona, LLC, employed the Defendant, John F.

DeGuide, on the date of the incident, July 21, 2017; and that the Defendant, Swift Transportation Company of Arizona, LLC, is a named Defendant herein pursuant to the theory of *Respondeat Superior*, in that it is liable for the actions of its employees, agents, servants, representatives, and/or volunteers while in the course and scope of their employment.

7. Upon information and belief, the Defendant, ABC Insurance Company, was at all times material hereto, the liability insurer of the Defendant, John F. DeGuide, and is a company authorized to do and doing business in the State of Wisconsin, and is engaged in the business of, including but not limited to, selling and writing liability insurance in the State of Wisconsin. On or prior to July 21, 2017, there was in full force and effect a policy of liability insurance issued by the Defendant, ABC Insurance Company, which, upon information and belief, was issued and/or delivered in Wisconsin to the Defendant, John F. DeGuide, indemnifying him against all liability incurred by reason of his product/equipment, negligence, actions and inactions; and pursuant to said contract of insurance, the Defendant, ABC Insurance Company, has an interest in the outcome of this action adverse to the Plaintiff, Kenneth F. Jaworek, and is a proper party pursuant to the provisions of Wis. Stat. § 803.04(2); that the identity of said insurance company is unknown and therefore, the Plaintiff, Kenneth F. Jaworek, is identifying said defendant insurance company by fictitious name pursuant to the provisions of Wis. Stat. § 807.12.

8. That the Defendant, John F. DeGuide, upon information and belief, is an adult resident of the Village of Creston, County of Ogle, Illinois, currently residing at 303 East Depot Street, Zip Code 60113.

CAUSE OF ACTION

9. That on or about July 21, 2017, the Plaintiff, Kenneth F. Jaworek, was the operator of a motor vehicle traveling southbound on United States Highway 151, at or near the intersection

with Nelson Road, in the City of Madison, County of Dane, Wisconsin; and that at that same time and place, the Defendant, John F. DeGuide, was the operator of a motor vehicle also traveling southbound on United States Highway 151, when he negligently operated his motor vehicle and collided with the motor vehicle operated by the Plaintiff, Kenneth F. Jaworek, thereby causing the Plaintiff's injuries and damages as hereafter described.

10. That the Defendant, Swift Transportation Company of Arizona, LLC, is a named Defendant herein pursuant to the theory of *Respondent Superior*, in that it is liable for the acts of its employees, servants, agents, and/or representatives, and/or volunteers herein, the Defendant, John F. DeGuide, while in the course and scope of his employment.

11. That the foregoing acts of negligence on the part of the Defendant, John F. DeGuide, while in the course and scope of his employment with the Defendant, Swift Transportation Company of Arizona, LLC, were the direct and proximate cause of the injuries and damages sustained by the Plaintiff, Kenneth F. Jaworek.

12. That as a result of the foregoing acts of negligence on the part of the Defendant, John F. DeGuide, the Plaintiff, Kenneth F. Jaworek, sustained injuries to his body and suffered emotional distress; that he has suffered pain and may continue to suffer pain for an indefinite time in the future; that he was required to seek medical attention; that he may be required to seek additional and continued medical attention in the future and to expend large sums of money for said medical attention; that he was unable to maintain his employment for a period of time, and may continue to be so restricted; and that he was unable to engage in his normal activities for a period of time, and may continue to be so restricted, all to his damage.

WHEREFORE, the Plaintiff, Kenneth F. Jaworek, demands Judgment against the Defendants in the following forms: for compensatory damages as the Court may deem just and

equitable, together with costs and disbursements of this action, reasonable attorney's fees associated with this action, for all interest due and owing under Wis. Stat. § 628.46, for dismissal of any and all subrogation or reimbursement claims in this matter, with the exception of Medicare, and any further relief the Court may deem just and equitable.

JURY DEMAND

PLEASE TAKE NOTICE that the Plaintiff in the above-entitled action hereby demands a trial by jury.

DATED at Madison, Wisconsin, this 6th day of August, 2019.

HUPY AND ABRAHAM, S.C.
Attorneys for the Plaintiff,

By: 

Brandon D. Derry
State Bar Number: 1055908

Post Office Address:
3001 West Beltline Highway
Suite 204
Madison, Wisconsin 53713
(608) 277-7777